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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA**

CHARLES ARNOLD, MARICOPA PUBLIC )  
FIDUCIARY, as guardian and next friend on )  
behalf of JOHN GOSS; NANCY E. ELLISTON, )  
as guardian, Maricopa County conservator and )  
next friend on behalf of CLIFTON DORSETT and )  
as next friend on behalf of RICHARD )  
SCHACHTERLE and SUSAN SITKO; TERRY )  
BURCH; and on behalf of all others similarly )  
situated, )

Plaintiffs,

v.

ARIZONA DEPARTMENT OF HEALTH )  
SERVICES, ARIZONA STATE HOSPITAL, )  
MARICOPA COUNTY BOARD OF )  
SUPERVISORS, JANET NAPOLITANO, )  
GOVERNOR OF ARIZONA, )

Defendants.

Maricopa County  
No. C-432355

**PLAINTIFFS' REPORT ON  
CONSUMER, FAMILY  
AND ADVOCATE ISSUES**

(Assigned to the Honorable  
Bernard J. Dougherty)

1     **I.     BACKGROUND**

2             At the October 8, 2004 Status Hearing, the Court ordered Plaintiffs' counsel to  
3 meet with representatives of consumer and advocate groups to provide the Court with  
4 guidance on whether further orders are necessary to address their concerns.  
5

6             To accomplish this, Plaintiffs' counsel began by making a comprehensive list of  
7 concerns about the mental health system in Maricopa County raised by consumers,  
8 family members and advocates using the following sources: written statements submitted  
9 to the Court for the Status Hearing, oral presentations at the Status Hearing, a summary  
10 of a public forum held in October 2004 by the Maricopa County Regional Behavioral  
11 Health Authority ("RBHA"), and summaries of meetings Plaintiffs' counsel held prior to  
12 the Status Hearing with various consumers. We reviewed this list with representatives of  
13 consumers, advocates and family members to ensure all critical issues were identified.  
14 Plaintiffs' counsel then divided the issues by the applicable provision in the Court's  
15 current orders, the Joint Stipulation on Exit Criteria and Disengagement ("Exit  
16 Stipulation") and the Supplemental Agreement. We have also identified those issues  
17 below which are not clearly covered by the current orders.  
18  
19

20     **II.    ISSUES IDENTIFIED BY CONSUMERS, ADVOCATES AND FAMILY**  
21             **MEMBERS**

22             The issues identified by consumer, advocates and family members can generally  
23 be grouped into the following provisions of the Court's orders.  
24  
25

1 **Court's Orders:**

2 **A. Quality and Operations of Case Management Services, Clinical**  
3 **Team and Clinics**

4 **1. Individual Service Plans [ISPs] are not developed according to agency**  
5 **rules**

6 Comment: Use of inappropriate ISP format and content, lack of consumer  
7 and family involvement in development of ISP; ISPs not individualized,  
8 lack of involvement of critical members on ISP team.

9 **2. Poor quality of medication practices**

10 Comment: Incorrect prescriptions written; incorrect dosages; lack of  
11 monitoring for side affects and necessary adjustment of medications;  
12 physicians failure to listen to consumers and families' feedback on side  
13 effects and lack of effectiveness; over reliance on medications as the only  
14 intervention; delays in appointments causing lapse in medication coverage;  
15 delays in coverage due to prior authorization process.

16 **3. Ineffective supervision, management and operation of clinics**

17 **4. Inadequate and outdated assessments**

18 **5. High case management caseloads**

19 Comment: Problems related include too little time to conduct assessments  
20 and plan and provide services.

21 **6. Poor quality of case management**

22 Comment: Significant numbers of inexperienced staff, lack of  
23 individualized attention, lack of contact from case management staff over  
24 long periods of time, little or no outreach to clients, lack of knowledge of  
25 available services, failure to effectively communicate service options and  
legal rights, inadequate discharge planning for individuals leaving inpatient  
facilities and jails.

1           7.     **Inadequate training of case management/clinical staff**

2           Comment: Specifically in the areas of service options, the recovery model,  
3           the Department's rules, discharge planning, engagement and outreach, co-  
4           occurring disorders and basic interpersonal skills.

5           8.     **High turnover in case management and clinical staff**

6     **B.     Compliance with the Rules**

7           1.     **Eligibility criteria are not appropriately applied**

8           Comment: The result is improper denial of eligibility for designation as  
9           Seriously Mentally Ill, and particularly if an individual has an issue with  
10          substance abuse.

11          2.     **Individuals not treated with dignity and respect**

12          Comment: Lack of privacy at the clinics; lack of honesty about the  
13          processes, in particular concerning service availability and implementation;  
14          and a lack of compassion and dedication in the delivery of care, all of  
15          which results in consumers feeling fearful of retaliation.

16          3.     **Inadequate number of human rights advocates**

17          Comment: The rules require close to 70 human rights advocates for  
18          Maricopa County; having the advocates working for ADHS/BHS limits the  
19          advocate's ability to independently advocate for clients.

20          4.     **Failure to inform consumers of rights**

21     **C.     Inpatient and Crisis Network**

22           1.     **Inadequate crisis network**

23           Comment: Need for an increased number of mobile crisis teams, increased  
24           in-home respite supports, the creation of short-term crisis and respite beds,  
25           an urgent care center located in the East Valley, and crisis response  
            capacity at the individual clinics.

1           **2. Improper discharge from inpatient, residential treatment and jail**

2           Comment: Discharges to shelters or inadequate housing without  
3           appropriate supports; changes in medication on discharge due to formulary  
4           restrictions; lack of continuity of care between providers.

5           **D. Co-Occurring Disorders**

6           **1. Lack of long-term planning for individuals with co-occurring**  
7           **disorders.**

8           **2. Lack of case management staff trained on co-occurring disorders**

9           Comment: Failure to conduct outreach and effectively engage consumers  
10          with co-occurring disorders.

11          **E. Employment.**

12          **1. Difficulty accessing vocational services and supported**  
13          **employment.**

14          **F. Housing**

15          **1. Lack of sufficient housing**

16          **G. Service Development**

17          **1. Failure to identify service gaps.**

18          **2. Lack of available services**

19          Comment: Limited program options in the community, long waiting lists,  
20          and individuals' difficulty accessing services.

21          **3. Services that are insufficient or lacking are:**

- 22           • **housing**
- 23           • **employment**
- 24           • **transportation**
- 25           • **individual and group counseling, including specialized therapies,**  
            **such as those geared toward co-occurring population and the young**  
            **adult population,**
- **peer-provided services**

1 **H. Quality Management**

- 2 1. Lack of sufficient oversight of ADHS
- 3 2. Lack of sufficient oversight of RBHA
- 4 3. Lack of oversight of system by consumers
- 5 4. Lack of independent assessment of RBHA's performance

6 **I. Budget**

- 7 1. Lack of oversight of ADHS budget proposal to the Governor and
- 8 Title XIX capitation rate adjustment/decreases
- 9 2. Lack of sufficient oversight of RBHA expenditure

10 **J. Pharmacy**

- 11 1. Excessive prior authorization
- 12 2. "Fail first" policy
- 13 3. Formulary concerns, e.g. lack of continuity of formularies, lack of open
- 14 formulary

15 **III. RELATIONSHIP BETWEEN IDENTIFIED ISSUES AND CURRENT**

16 **COURT ORDERS**

17 The vast majority of issues identified by consumers, advocates and family

18 members are covered by provisions of the Exit Stipulation, Supplemental Agreement, the

19 Case Management and Clinical Team Services Plan, and the Arizona Department of

20 Health Services' ADHS Amended Corrective Action Plan.

21 There are however, three issues which do not clearly fall within the current orders

22 in the case. They are oversight of the ADHS budget and expenditures by the RBHA,

23 oversight of the system by consumers and family members, and pharmacy practices.

24

25

**A. Issues Substantially Addressed by the Court's Current Orders**

The chart below outlines how most of the identified issues are addressed by current Court order.

ISSUES	APPLICABLE COURT ORDER
Clinical Teams and Clinics Case Management	Exit Stipulation ¶¶ 4, 5 40, 41, App C Supplemental Agreement ¶¶ 22,23, 24, 25,26, 31 Maricopa County Case Management and Clinical Team Services Plan
Compliance with Rules	Exit Stipulation ¶¶ 4 & 5 Supplemental Agreement ¶ 30
Inpatient and Crisis Network	Exit Stipulation ¶¶ 4,5,24
Co-Occurring	Supplemental Agreement ¶¶ 9, 17, 18, 21
Employment	Exit Stipulation ¶ 31 Supplemental Agreement ¶¶ 9, 17, 18, 21
Housing	Exit Stipulation ¶ 32 Supplemental Agreement ¶¶ 9, 17, 18, 21
Service Development	Exit Stipulation ¶¶ 10, 14, 24, 29, Supplemental Agreement ¶¶ 8, 9, 12, 13, 14, 15, 16,17, 18, 20, 21
Quality Management and Oversight	Exit Stipulation: ¶ 37-40 and ¶ 51 and Appendix F Amended Appointment of the Court Monitor Supplemental Agreement ¶ ¶ 23, 25, 26, 30 31, 32
Budget	Exit Stipulation ¶¶ 33,34

The Plaintiffs believe that the issues described in sections II A-G are adequately addressed by each Court order, provided that the Defendants comply with these orders. Many of the specific quality concerns with the operation of clinics are not specifically addressed in the Exit Stipulation and Supplemental Agreement. However, the strategies in the Corrective Action Plan have the potential to remedy a wide range of quality

1 concerns. Consumers and family members are employed as members of the mentoring  
2 teams and are committed to continuing to raise these concerns. The consumers and  
3 family members will be part of the evaluation and debriefing process for the mentoring  
4 teams at the five targeted sites and will seek improvements in all areas of practice at the  
5 clinic sites.  
6

7 The consumers, family members and advocates raised a number of concerns and  
8 suggestions concerning the lack of oversight of both ADHS and the RBHA. The concerns  
9 addressed oversight of both the provision of services to clients, as well as the  
10 development of the budget and the expenditure of appropriated funds. They are  
11 specifically concerned that the oversight be independent of both ADHS and the RBHA.  
12 It is our belief that the Monitor's Office must play an enhanced oversight role with  
13 respect to both ADHS and the RBHA. While it is clear that under the Monitor's current  
14 orders, she has broad authority to perform this function, greater oversight by the  
15 Monitor's Office will necessitate an increase in her staff and budget.  
16

17 With respect to the ADHS budget, Plaintiffs intend to carefully scrutinize the  
18 budget developed by the Department for the Governor, including the development of the  
19 Title XIX capitation rates which in the past year were dramatically reduced, resulting in a  
20 corresponding reduction in services. Over the next sixty to ninety days, we will discuss  
21 with the Defendants the best method to perform this oversight function and will report to  
22 the Court by March 1, 2005 if additional orders are necessary to ensure sufficient  
23 oversight of the budget process.  
24  
25



1 **B. Issues Not Substantially Addressed by the Court's Current Orders**

2 **1. Oversight of the Expenditures by the RBHA**

3 There have been significant increases in funding for classmembers in the last four  
4 years, yet both the quality and capacity of the services system has deteriorated. The  
5 consumers, family members and advocates have raised concerns about ValueOptions'  
6 excessive profits, shifting funds between clients groups, use of affiliated or sister  
7 corporations, retention of pharmacy rebates, and excessive or inappropriate  
8 administrative costs -- all of which could result in less funding for needed services.  
9 Plaintiffs believe that at this juncture there must be enhanced oversight of all of the  
10 RBHA's budgeting, contracting, accounting, and expenditure activities. While oversight  
11 of the state budget and appropriation process is currently covered by the Court's order,  
12 the oversight of the RBHA's fiscal practices are not. Over the next sixty to ninety days,  
13 Plaintiffs will meet with the Defendants to discuss how best to accomplish this function  
14 and will report to the Court by March 1, 2005 if additional orders are needed.

15  
16 **2. Independent Oversight of the System by Consumers and Family Members**

17 The consumer and family members believe that to ensure quality of services, it  
18 essential that there be the capacity for independent oversight of the community mental  
19 health system by the persons who are served by that system. To some extent, this has  
20 been accomplished with the addition of consumers and family members to the Court  
21 Monitor's audit team. However, they envision an ongoing monitoring of the system with  
22 regular reporting and the authority to require corrective action. We have begun  
23 discussions with the Court Monitor to determine whether this function could be  
24  
25

1 established in her Office. She has agreed to discuss this with the consumers and family  
2 members over the next sixty to ninety days.

### 3           **3.     Pharmacy Issues**

4  
5           The consumers, family members and advocates raised serious concerns about the  
6 manner in which the RBHA manages the prescribing and dispensing of medications, as  
7 set forth in section II(J) above. Many of the concerns were with the prior authorization  
8 policies of the RBHA. They include restrictions on what medications are covered on the  
9 RBHA formulary, restrictions on dosage and combinations of medications, requirements  
10 that medications be prior authorized month after month without sufficient prescriber  
11 appointments to ensure continuity of care, differences in formularies from inpatient  
12 settings to the RBHA clinics resulting in arbitrary and at times disruptive changes in  
13 client's medication regime, requirements that clients must fail on older, less effective  
14 medications before newer medications will be authorized, differences in formulary  
15 between the Maricopa County RBHA and other RBHA's in the state, as well as quality  
16 issues described in Paragraph II(A)(2) above.

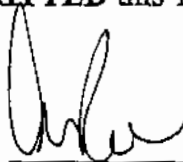
17           The consumers, family members and advocates have begun conversations with  
18 both DBHS and the RBHA about these concerns and have seen some favorable  
19 resolution. While there remain many issues related to medication, they intend to continue  
20 to address them directly with DBHS and the RBHA. Therefore, the plaintiffs do not  
21 believe that any further action on these issues are required by the Court.

### 22           **IV.   CONCLUSION**

23  
24           After a comprehensive review of the issues raised by consumers, family members  
25 and advocates, the Plaintiffs believe that most of the concerns will be addressed if there is

1 full and timely compliance with the current court orders. For most of the remaining  
2 issues, Plaintiffs will meet and confer with the Defendants and the Monitor to address  
3 those issues and report back to the Court by March 1, 2005 as to whether additional  
4 orders are necessary.  
5

6 **RESPECTFULLY SUBMITTED** this 10th day of December, 2004.

7 

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26 **ORIGINAL** of the foregoing  
27 filed this 10th day of December,  
28 2004 with:

29 Clerk of the Superior Court  
30 201 W. Jefferson  
31 Phoenix, Arizona 85003

1 COPY of the foregoing hand  
2 delivered this 10th day of  
3 December, 2004 to:

4 The Honorable Bernard J. Dougherty  
5 Superior Court of Maricopa County  
6 201 W. Jefferson  
7 Suite 4A  
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9 Attention: Cheryl - Judge Colin Campbell

10 COPY of the foregoing mailed this 10th day  
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